

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No. 98-170

 In the Matters of)
)
 Truth-in-Billing)
 and)
 Billing Format)
 _____)

**COMMENTS ON PETITIONS FOR WAIVER, STAY AND OTHER
 FORMS OF RELIEF**

Time Warner Telecom (TWTC), by its attorneys, hereby comments on the petitions for waiver, stay, and other forms of relief referenced in the public notice issued by the Commission on August 13, 1999,¹ and states as follows:

In the Stay/Waiver Public Notice, the Commission announced the receipt of a series of petitions in this proceeding in which petitioners have sought interim relief from certain of the truth-in-billing requirements promulgated in the Truth-in-Billing Order.² The petitions announced in the Stay/Waiver Public Notice are separate from the petitions requesting reconsideration of various aspects of the Truth-in-Billing Order.³ Because the petitions noted in

¹Common Carrier Bureau Seeks Comment on Petitions Relating to Truth-in-Billing Filed by the Following Parties: Ameritech; Cable Plus, L.P. and Multitechnology Services, L.P.; SBC Communications Inc.; Sprint Corporation; United States Telephone Association; U S West Communications, Inc., DA 99-1616, released August 13, 1999 ("Stay/Waiver Public Notice").

² In the Matter of Truth-in-Billing and Billing Format (First Report and Order and Further Notice of Proposed Rulemaking), FCC 99-72, released May 11, 1999 ("Truth-in-Billing Order").

³ Several petitions for reconsideration of the Truth-in-Billing Order have been filed. Pursuant to the Commission's rules governing petitions for reconsideration in rulemaking proceedings,

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the Stay/Waiver Public Notice request interim relief of an emergent nature, the Commission established an expedited pleading schedule on the petitions.

The petitions generally ask the Commission to issue a stay or a waiver of two specific requirements promulgated in the Truth-in-Billing Order. The first is the requirement that billing carriers notify customers whenever a new service provider has begun providing services which are being billed for. "New service provider" is defined for purposes of this requirement as "any provider that did not bill for services on the previous billing statement."⁴ The second requirement for which stays or waivers have been requested is the so-called "Deniable/Non-deniable notification" requirement. That requirement, codified at 47 C.F.R. § 64.2001(c), requires all billing carriers to clearly and conspicuously identify on bills those charges for which non-payment will not result in disconnection of basic, local exchange service.

The petitions articulate clearly and convincingly that virtually all billing local exchange carriers (including the entirety of the incumbent local exchange carrier industry segment) simply do not have systems in place to implement the "New Service Provider" rule or the "Deniable/Non-deniable" rule by the anticipated effective date.⁵ In addition, several of the

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announcement of those reconsideration petitions was published in the Federal Register on August 30, 1999. 64 Fed. Reg. 47190. Comments on those petitions for reconsideration are due September 14, 1999.

⁴ 47 C.F.R. § 64.2001(a)(2)(ii).

⁵ Currently, the effective date of the Truth-in-Billing rules remains uncertain. By public notice issued September 2, 1999, the Commission indicated that the rules still had not been approved by the Office of Management and Budget, and that the rules would not become effective until some time after September 6, 1999, following OMB approval, publication of an effective date in the Federal Register, and a thirty day notice period following that publication.

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petitioners note that pending petitions for reconsideration raise significant legal, jurisdictional and policy questions regarding these rules. In order to provide billing carriers a reasonable opportunity to develop the systems needed to support those rules and to afford the Commission a reasonable opportunity to reconsider – and perhaps refine and clarify – those rules, they have asked the Commission either to waive those rules or to stay their effectiveness until at least April 1, 2000.

TWTC concurs with the petitioners that immediate implementation of the New Service Provider and Deniable/Non-deniable requirements would be impracticable, indeed impossible. It also concurs with the view articulated in those petitions that the Commission's important consumer protection objectives can be achieved by modest clarifications and modifications which would spare the industry – and ultimately consumers – of having to bear the costs associated with the massive changes to carrier billing systems needed to comply with the rules as promulgated. Therefore it supports the requests for stay and/or waiver of the New Service Provider and Deniable/Non-deniable rules.

While the petitions noted in the Stay/Waiver Public Notice seek relief only for the petitioners, and, in the case of the United States Telephone Association, for all of its incumbent LEC members, those petitions articulately demonstrate the existence of serious industry-wide compliance difficulties. Thus, TWTC urges the Commission to act in a manner which extends any such waiver or stay to all carriers subject to the New Service Provider and Deniable/Non-deniable rules. As a matter of administrative procedure, TWTC believes that a stay of the rules

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See Public Notice - Enforcement Division of the Common Carrier Bureau Announces Delayed Effective Date of Truth-In-Billing Rules in CC Docket No. 98-170, DA 99-1789.

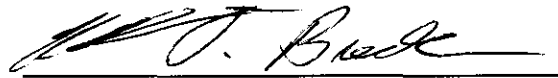
would be the most clear and comprehensive way to afford the entire telecommunications industry an opportunity to work with the Commission to develop rules and systems which enable consumers to readily identify slamming and cramming and which advise consumers as to risks of local service disconnection for non-payment without imposing burdensome costs on the industry.

Significantly, several of the petitioners, including Ameritech, SBC and U S West, are among the largest LECs in the nation. Even with their very extensive resources, those companies explain that their current billing systems are not equipped to provide the information required by the two rules in question and that incurrence of the costs of system modification and upgrading to comply will undermine other, more critical activities, including Year 2000 remediation. If the largest, most fiscally sound, and experienced incumbent LECs cannot comply in the short-term with the New Service Provider and Deniable/Non-deniable rules without incurring substantial costs and without impeding other high priority projects, recent market entrants are equally unable to comply. TWTC has been expending considerable effort to enhance its billing system, not only to comply with Commission objectives, but more importantly, to provide bills to its customers which contain the information consumers need, and to present that information in a format which will enable its customers to understand the services they are being billed for.

The petitions noted in the Stay/Waiver Public Notice seek only reasonable delays in the implementation and modest clarification or adjustment in the details of the rules. Accordingly, TWTC supports the requests for stays and for waiver contained in the petitions referenced in the Stay/Waiver Public Notice, and respectfully urges the Commission to grant such relief in a

manner that it is applicable to all billing carriers which does not favor petitioners over other carriers subject to the truth-in-billing requirements.

Respectfully submitted,
TIME WARNER TELECOM

A handwritten signature in black ink, appearing to read "M. F. Brecher", written over a horizontal line.

Mitchell F. Brecher

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September 3, 1999

CERTIFICATE OF SERVICE

I, Robert S. Childress, a secretary in the law firm of Greenberg Traurig, certify that I have this 3rd day of September, 1999, caused a copy of the foregoing Comments on Petitions for Waiver, Stay and Other Forms of Relief to be served via first-class mail, unless otherwise indicated, upon the persons listed below:

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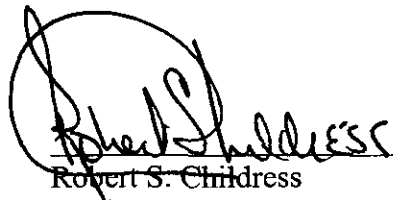
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